

HOUSE No. 2444

By Ms. St. Fleur of Boston (by request), petition of Joseph Ureneck relative to fair cash tax valuation of property in cities and towns. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO TAXATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 38 of Chapter 59 of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by inserting in the
3 first paragraph, beginning in line 2 and following:—

4 Section 38. The assessors of each city and town shall at the
5 time appointed therefor make a fair cash valuation, the words “
6 subject to paragraph (a-e) of this Section 38, ”.

7 Said Section 38 of Chapter 59 of the General Laws, as
8 appearing in the 2002 Official Edition, is hereby further amended
9 by adding the following new paragraphs (a-e) following the last
10 paragraph of said Section 38 of Chapter 59 of the General Laws as
11 appearing in the 2002 Official Edition:

12 (a) The “fair cash valuation” of Class one real property means
13 the assessed valuation of real property as shown on the 1999-2000
14 tax bill under “total full valuation” or, thereafter, the appraised
15 value of real property when purchased, newly constructed, or a
16 change in ownership has occurred after the 1999 assessment. All
17 real property not already assessed up to the 1999-2000 full cash
18 value may be reassessed to reflect that valuation. For purposes of
19 this section, “newly constructed” does not include Class one real
20 property that is reconstructed after a disaster, as declared by the
21 Governor, where the fair market value of the real property, as
22 reconstructed, is comparable to its fair market value prior to the
23 disaster. For purposes of subdivision (a), the terms “purchased”
24 and “change in ownership” do not include the purchase or transfer

25 of real property between spouses since March 1, 1999, including,
26 but not limited to, all of the following:

27 (1) Transfers to a trustee for the beneficial use of a spouse, or
28 the surviving spouse of a deceased transferor, or by a trustee of
29 such a trust to the spouse of the trustor.

30 (2) Transfers to a spouse that take effect upon the death of a
31 spouse.

32 (3) Transfers to a spouse or former spouse in connection with a
33 property settlement agreement or decree of dissolution of a mar-
34 riage or legal separation.

35 (4) The creation, transfer, or termination, solely between
36 spouses, of any co-owner's interest.

37 (5) The distribution of a legal entity's property to a spouse or
38 former spouse in exchange for the interest of the spouse in the
39 legal entity in connection with a property settlement agreement or
40 a decree of dissolution of a marriage or legal separation.

41 (b) (1) For purposes of subdivision (a), the terms "purchased"
42 and "change in ownership" do not include the purchase or transfer
43 of the principal residence of the transferor in the case of a pur-
44 chase or transfer between parents and their children, as defined by
45 the Legislature, and the purchase or transfer of the first one mil-
46 lion dollars (\$1,000,000) of the full cash value of all other real
47 property between parents and their children, as defined by the
48 Legislature. This subdivision shall apply to both voluntary trans-
49 fers and transfers resulting from a court order or judicial decree.

50 (2) (A) Subject to subparagraph (B), commencing with pur-
51 chases or transfers that occur on or after the date upon which the
52 measure adding this paragraph becomes effective, the exclusion
53 established by paragraph (1) also applies to a purchase or transfer
54 of real property between grandparents and their grandchild or
55 grandchildren, as defined by the Legislature, that otherwise quali-
56 fies under paragraph (1), if all of the parents of that grandchild or
57 those grandchildren, who qualify as the children of the grandpar-
58 ents, are deceased as of the date of the purchase or transfer.

59 (B) A purchase or transfer of a principal residence shall not be
60 excluded pursuant to subparagraph (A) if the transferee grandchild
61 or grandchildren also received a principal residence, or interest
62 therein, through another purchase or transfer that was excludable
63 pursuant to paragraph (1). The full cash value of any real prop-

erty, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one million dollar (\$1,000,000) full cash value limit specified in paragraph (1).

(c) The fair cash value base of individual Class one real property may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.

(d) This article shall take effect for the tax year beginning on July 1 following its passage.

(e) If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect.